

**9544.0020 DEFINITIONS.**

Subpart 1. **Scope.** Except as provided in subpart 43, terms used in parts 9544.0005 to 9544.0140 have the meanings given in this part.

Subp. 2. **Aversive procedure.** "Aversive procedure" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 2b.

Subp. 3. **Behavior intervention report form.** "Behavior intervention report form" means the form prescribed by the commissioner to collect data in accordance with the requirements in Minnesota Statutes, section 245.8251, subdivision 2.

Subp. 4. **Case manager.** "Case manager" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 3.

Subp. 5. **Chemical restraint.** "Chemical restraint" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 3b.

Subp. 6. **Child with severe emotional disturbance.** "Child with severe emotional disturbance" has the meaning given in Minnesota Statutes, section 245.4871, subdivision 6.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services.

Subp. 8. **Crisis respite services.** "Crisis respite services" means in-home or out-of-home short-term care and intervention strategies provided to a person to address the person's medical or behavioral needs so as to support the person's caregiver and protect the person or others living with that person.

Subp. 9. **Cultural competence.** "Cultural competence" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 4e.

Subp. 10. **Deprivation procedure.** "Deprivation procedure" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 5a.

Subp. 11. **Developmental disability or related condition.** "Developmental disability or related condition" has the meaning given in part 9525.0016, subpart 2, items A to E.

Subp. 12. **Direct support staff.** "Direct support staff" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 6a.

Subp. 13. **Domains of a meaningful life.** "Domains of a meaningful life" means community membership; health, wellness, and safety; own place to live; important long-term relationships; control over supports; and employment earnings and stable income.

Subp. 14. **Emergency use of manual restraint.** "Emergency use of manual restraint" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 8a.

Subp. 15. **Expanded support team.** "Expanded support team" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 8b.

Subp. 16. **External program review committee.** "External program review committee" means a committee appointed by the commissioner to fulfill the functions described in Minnesota Statutes, section 245.8251, subdivisions 3 and 4.

Subp. 17. **External qualified professional.** "External qualified professional" means a qualified professional who is not under the direction and control of the license holder and is not an employee of or a subcontractor used by the license holder to perform services subject to the requirements of this chapter.

Subp. 18. **Family foster care.** "Family foster care" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 8c.

Subp. 19. **Faradic shock.** "Faradic shock" means of or pertaining to a discontinuous, asymmetric, alternating or direct current from the second winding of an induction coil.

Subp. 20. **Forms and instructions.** "Forms and instructions" means the forms and instructions referenced in Minnesota Statutes, section 245D.06, subdivision 8, paragraph (a).

Subp. 21. **Functional behavior assessment.** "Functional behavior assessment" means an assessment that operationally defines the target behaviors, identifies the situations in which the target behaviors are likely to occur and not occur, and generates a hypothesis of why the behaviors occur. A functional behavior assessment must be conducted by a qualified professional and must consist of direct observation and one or more of the following elements:

- A. an assessment of biological factors, such as a medical assessment or a dental assessment;
- B. an assessment of psychological factors, such as a diagnostic assessment or a suicidality assessment;
- C. an assessment of environmental factors, such as direct observation or interviewing a significant individual in the person's life; and
- D. an assessment of quality of life indicators based on the person's goals and needs within each domain of a meaningful life.

Subp. 22. **Home and community-based services.** "Home and community-based services" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 10.

Subp. 23. **Interfering behavior.** "Interfering behavior" means a behavior or psychiatric symptom that prevents a person from engaging in a more integrated setting or from participation in the most integrated setting.

Subp. 24. **Legal representative.** "Legal representative" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 12.

Subp. 25. **Level program.** "Level program" means a type of program consisting of a hierarchy of levels contingent on meeting specific performance criteria with respect to behavior.

Subp. 26. **License.** "License" has the meaning given in Minnesota Statutes, section 245A.02, subdivision 8.

Subp. 27. **License holder.** "License holder" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 15.

Subp. 28. **Manual restraint.** "Manual restraint" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 15a.

Subp. 29. **Mechanical restraint.** "Mechanical restraint" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 15b. Mechanical restraint includes use of an auxiliary device to ensure a person does not unfasten a seat belt in a vehicle. Mechanical restraint does not include:

A. use of a seat belt as required under Minnesota Statutes, section 169.686; or

B. use of a child passenger restraint system as required under Minnesota Statutes, section 245A.18, subdivision 1.

Subp. 30. **Medication.** "Medication" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 16.

Subp. 31. **Mental health mobile crisis intervention services.** "Mental health mobile crisis intervention services" has the meaning given in Minnesota Statutes, section 256B.0624, subdivision 2, paragraph (d).

Subp. 32. **Mental illness.** For an adult, "mental illness" has the meaning given in Minnesota Statutes, section 245.462, subdivision 20.

Subp. 33. **Most integrated setting.** "Most integrated setting" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 20a.

Subp. 34. **Normal goods and services.** "Normal goods and services" means a person's normal access to a nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, or necessary clothing, in accordance with Minnesota Statutes, section 245D.06, subdivision 6, paragraph (b), clause (4), or to any protection required by state licensing standards and federal regulations governing the program.

Subp. 35. **Outcome.** "Outcome" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 21a.

Subp. 36. **Pain.** "Pain" means physical pain, mental pain, or emotional distress.

Subp. 37. **Person.** "Person" means a person as defined under Minnesota Statutes, section 245D.02, subdivision 22, receiving home and community-based services, a person age 65 or older receiving home and community-based services, or a person with a developmental disability or related condition receiving services licensed under Minnesota Statutes, chapter 245A.

Subp. 38. **Person-centered planning.** "Person-centered planning" means a strategy used to facilitate team-based plans for improving a person's quality of life as defined by the person, the person's family, and other members of the community, and that focuses on the person's preferences, talents, dreams, and goals. It is part of a family of approaches to organizing and guiding community change in alliance with people with disabilities and their families and friends.

Subp. 39. **Person with a disability.** "Person with a disability" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 23.

Subp. 40. **Physician.** "Physician" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 23a.

Subp. 41. **Positive support strategy.** "Positive support strategy" means a strengths-based strategy based on an individualized assessment that emphasizes teaching a person productive and self-determined skills or alternative strategies and behaviors without the use of restrictive interventions.

Subp. 42. **Positive support transition plan.** "Positive support transition plan" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 23b.

Subp. 43. **Program.** "Program" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 26. This subpart applies to parts 9544.0020, subparts 16, 34, and 47; 9544.0060, subpart 2, item U; 9544.0090, subpart 5; 9544.0110; 9544.0120; and 9544.0130.

Subp. 44. **Prone restraint.** "Prone restraint" has the meaning given in Minnesota Statutes, section 245D.061, subdivision 3, paragraph (a), clause (7).

Subp. 45. **Psychotropic medication.** "Psychotropic medication" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 27.

Subp. 46. **Punishment.** "Punishment" means a Type I or Type II action as described in items A and B.

A. Type I action means the contingent application of an aversive stimulus. "Aversive stimulus" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 2c.

B. Type II action means the contingent removal of a positive reinforcer. "Positive reinforcer" means a consequence or stimulus that is presented following a behavior and that causes the behavior to increase.

Subp. 47. **Qualified professional.** "Qualified professional" is defined separately for each type of service and license. Qualified professional means a professional described in items A to C; or a professional described in items D to J who has at least two years of work experience in writing or implementing positive support plans or treatment plans and has demonstrated in an assessment approved by the commissioner that the professional is competent to develop and implement positive support transition plans. For purposes of this subpart, treatment plan means a written document prepared by a licensed health professional that includes a description of the precise treatment goals and the measures or services identified to accomplish them. The following occupations are qualified professionals for the specified services and settings:

A. for residential facilities for adults with mental illness governed under parts 9520.0500 to 9520.0670, a licensed mental health professional as identified in Minnesota Statutes, section 245.462, subdivision 18;

B. for residential mental health treatment for children with severe emotional disturbance governed under parts 2960.0010 to 2960.0120 and parts 2960.0580 to 2960.0700, a licensed mental health professional as identified in Minnesota Statutes, section 245.462, subdivision 18, clauses (1) to (6);

C. for sexual psychopathic personality and sexually dangerous person treatment programs governed under parts 9515.3000 to 9515.3110, a licensed mental health professional as defined in Minnesota Statutes, section 245.462, subdivision 18, or a licensed psychologist as defined in Minnesota Statutes, section 148.907;

D. for home and community-based services governed under Minnesota Statutes, chapter 245D, a designated coordinator as identified in Minnesota Statutes, section 245D.081, subdivision 2, paragraph (b); a behavior professional as identified in Minnesota Statutes, section 245D.091, subdivision 2; or a behavior analyst as identified in Minnesota Statutes, section 245D.091, subdivision 3;

E. for chemical dependency treatment programs governed under Minnesota Statutes, chapter 245G, a licensed alcohol and drug counselor as defined in Minnesota Statutes, section 245G.11, subdivision 5;

F. for detoxification programs governed under parts 9530.6510 to 9530.6590, a chemical dependency assessor as defined in part 9530.6510, subpart 3a;

G. for chemical dependency treatment programs for children governed under parts 2960.0010 to 2960.0120 and parts 2960.0430 to 2960.0500, an alcohol and drug counselor supervisor as identified in part 2960.0460, subpart 4; or an alcohol and drug counselor as identified in part 2960.0460, subpart 5;

H. for children's residential facilities governed under parts 2960.0010 to 2960.0120, including children's residential care, shelter care services, group residential settings, and transitional services programs, a program director as identified in part 2960.0020, subpart 57;

I. for child care centers governed under chapter 9503, a teacher as defined in part 9503.0032; a staff person who meets the qualification requirements in item A or D; or a person's case manager as required in Minnesota Statutes, section 256B.092, subdivision 1a, paragraph (e);

J. for foster family settings governed under parts 2960.3000 to 2960.3100, qualified staff from the county or private child placing agency; and

K. for the following settings and services, a person who meets the qualification requirements in item A or D; or a person's case manager as required in Minnesota Statutes, section 256B.092, subdivision 1a, paragraph (e):

- (1) family child care governed under chapter 9502;
- (2) family adult day services governed under Minnesota Statutes, section 245A.143;
- (3) adult day centers governed under parts 9555.9600 to 9555.9730;

- (4) adult foster care governed under parts 9555.5105 to 9555.6265;
- (5) child foster care governed under parts 2960.3000 to 2960.3340;
- (6) independent living assistance for youth governed under Minnesota Statutes, section 245A.22;
- (7) residential programs and services for persons with physical disabilities governed under chapter 9570; and
- (8) any other residential or nonresidential program licensed under Minnesota Statutes, chapter 245A.

Subp. 48. **Quality of life indicator.** "Quality of life indicator" means a reportable or observable outcome that is measurable and important to the person. Quality of life indicators are used to assess beneficial changes desired by the person that enrich the person's life experiences.

Subp. 49. **Restraint.** "Restraint" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 28.

Subp. 50. **Restrictive intervention.** "Restrictive intervention" means prohibited procedures identified in Minnesota Statutes, section 245D.06, subdivision 5; prohibited procedures identified in part 9544.0060; and the emergency use of manual restraint.

Subp. 51. **Seclusion.** "Seclusion" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 29.

Subp. 52. **Self-injurious behavior.** "Self-injurious behavior" means behavior of a person which results in damage to the person's own body.

Subp. 53. **Service.** "Service" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 30.

Subp. 54. **Target behavior.** "Target behavior" means an observable behavior identified in a person's individual plan as the object of efforts intended to reduce or eliminate the behavior.

Subp. 55. **Token reinforcement program.** "Token reinforcement program" means a program that requires a person to earn an outcome that is of value to the person. Tokens are earned in recognition of desired behavior. Tokens are traded in exchange for activities, events, goods, or services that may not otherwise be available to the person.

Subp. 56. **Treatment.** "Treatment" has the meaning given in Minnesota Statutes, section 245D.02, subdivision 35a.

Subp. 57. **Variance.** "Variance" means written approval by the commissioner for a license holder or applicant to depart from the requirements of parts 9544.0005 to 9544.0140.

**Statutory Authority:** *MS s 245.8251*

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